

Remarks

The Office Action mailed September 8, 2008 has been received and reviewed.

Claims 4, 275 and 295 having been amended, the pending claims are claims 1-8, 10, 233, 273-275, 279-281 and 293-296, all of which are currently under consideration by the Examiner.

Examiner Interview

Applicants thank Examiner Casey Hagopian and Examiner Michael Woodward for the courtesy of a telephone interview on November 19, 2008, during which the specification, the then-pending claims, and the Office action were discussed. Agreement was reached that the response filed herein should remove all issues in the current Office action.

Amendments to the Specification

The specification has been amended to correctly identify the trademarked materials identified as cobalt-chromium alloys.

No new matter has been added.

Amended Claims

Claims 4, 275 and 295 have each been amended.

Claims 4, 275 and 295 have each been amended to remove the specific material and correct an obvious error. MP35N was erroneously listed in the claims as a stainless steel. As is known in the art and also described in the specification, MP35N is not a stainless steel, but a cobalt-chromium alloy. Thus, the term MP35N was removed from the claim to both correct the error and remove the term from the generic group of cobalt-chromium alloys. Claim 275 was also amended to correct a typographical error, specifically, to add a comma after "cobalt-chromium alloy". Claim 295 has also been amended to remove the term "a wood" from the claim.

No new matter has been added.

Specification Objection

The Office action objected to the specification. Applicants have amended the specification to correctly identify the trademarked materials MP35N®, ELIGILOY®, HAYNES 25®, and STELLITE®. In light of the publicly available information regarding MP35N®, ELIGILOY®, HAYNES 25®, and STELLITE®, it is clear that these materials are well known cobalt-chromium alloys and that the use of the term “cobalt-chromium alloys” in the specification does not introduce new matter, but utilizes a well-known generic term that encompasses those specific materials.

Thus, Applicants respectfully request that the objections be withdrawn.

Rejections under 35 U.S.C. §112, First Paragraph

The Office action rejected claims 4, 275 and 295 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement.

Claims 4, 275 and 295 as amended were discussed in the above-referenced interview. In light of the publicly available information regarding MP35N®, ELIGILOY®, HAYNES 25®, and STELLITE®, it is clear that these materials are well known cobalt-chromium alloys and that the use of the term “cobalt-chromium alloys” in the claim does not introduce new matter, but utilizes a well-known generic term that describes those specific materials.

Thus, Applicants respectfully request that the rejections be withdrawn.

Equivalents

The amendments to the claims have been made to claim subject matter which the Applicants regard as their invention. By such amendments, the Applicants in no way intend to surrender any range of equivalents beyond that which is needed to patentably distinguish the claimed invention as a whole over the prior art. Applicants expressly reserve patent coverage to all such equivalents that may fall in the range between applicants literal claim recitations and

Amendment and Response

Serial No.: 10/054,447

Confirmation No.: 5485

Filed: January 22, 2002

For: METHOD FOR COATING MEDICAL DEVICE SURFACES

Page 11 of 11

those combinations that would have been obvious in view of the prior art. In particular, as noted above, many of the claims have not been narrowed within the meaning of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 USPQ2d 1705 (2002), and Applicants are therefore entitled to the full range of equivalents with respect to each of the presently-pending claims.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

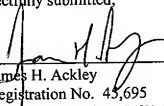
Applicants believe that no further fees are required in connection with the instant amendment. If necessary, however, the Examiner is hereby authorized to charge any fees required in connection with this application to Deposit Account No. 13-2546.

Respectfully submitted,

Date

November 19, 2008

By:


James H. Ackley

Registration No. 45,695

Telephone Number: (763) 505-2913

Facsimile Number: (763) 505-2530

CUSTOMER NUMBER: 27581